

REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. Claims 1-6, 8-19, 22-27, 29-33 and 35-42 remain pending in the case. Claims 1-7, 9-12, 14-20, 22-26, 28-34, 36-39, 41 and 42 are rejected. Claims 8, 13, 21, 27, 35 and 40 are objected to. Claims 7, 20, 21, 28 and 34 are cancelled herein without prejudice. Claims 1, 4-6, 14-16, 29, 31-33, 41 and 42 are amended herein. No new matter has been added.

ALLOWABLE SUBJECT MATTER

Applicants wish to thank the Examiner for the indication that Claims 8, 13, 21, 27, 35 and 40 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants respectfully submit that Claim 16 is amended herein to include the recitations of Claims 20 and 21. Therefore, Applicants respectfully submit that Claim 16 is in condition for allowance. Moreover, Applicants respectfully submit that Claims 17-19 and 22-27 that depend from independent Claim 16 are also now in condition for allowance as being dependent from an allowable base claim.

35 U.S.C. §102(e)

Claims 29-33, 41 and 42 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,879,561 by Zhang et al., hereinafter referred to as Zhang. Applicants have reviewed Zhang and respectfully submit that the

claimed embodiments as recited in Claims 29-33, 41 and 42 are not anticipated by Zhang for at least the following rationale.

Applicants respectfully direct the Examiner to independent Claim 29 that recites that an embodiment of the present invention is directed to (emphasis added):

A computer-usable medium having computer-readable code embodied therein for causing a computer system to perform a method of converting burst losses of media packets in a second order into isolated losses in relation to a first order of media packets in a media transmission, comprising:

receiving encoded media packets in said first order;
selecting a schedule adapter from a plurality of schedule adapters for reordering said media packets into said second order that is selected according to loss characteristics of a downstream channel; and

transmitting said media packets in said second order.

Claims 30-33, 41 and 42 that depend from independent Claim 29 also include these embodiments.

MPEP §2131 provides:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Applicants respectfully submit that the rejection of Claims 29-33, 41 and 42 is improper as the rejection of Claims 29-33, 41 and 42 does not satisfy the requirements of a *prima facie* case of anticipation as claim embodiments are not

met by Zhang. Applicants respectfully submit that Zhang does not teach or suggest the claimed embodiments in the manner set forth in independent Claim 29.

Applicants respectfully submit that Zhang does not disclose “selecting a schedule adapter from a plurality of schedule adapters for reordering said media packets into said second order that is selected according to loss characteristics of a downstream channel” (emphasis added) as claimed.

Applicants understand Zhang to disclose “[a] method and system for scheduling data in the down, or forward, link, on a per packet basis in a wireless telecommunications network” (emphasis added; Abstract). In particular, Zhang recites that “[t]he packet tag, channel condition information 203, buffer occupancy information 207 from the buffers 202, retransmission information 209 and other information 211, such as the packet loss rate, are supplied to a scheduling unit 212 that applies a scheduling algorithm, or set of scheduling rules, to provide scheduling decisions 206 that are returned to the buffers 202 to schedule the packets” (emphasis added; col. 4, lines 38-44).

Applicants understand Zhang to disclose a method for scheduling packets for multiple queues by evaluating information provided to the scheduler. “The information used by the scheduler 200 generally includes the channel condition of each user or terminal, any retransmission information, the wireless packet QoS conditions, and the packet sizes” (col. 5, lines 16-19). As disclosed in Zhang, Applicants respectfully submit that this information is provided to scheduler 200,

according to a particular scheduling algorithm or set of rules (see at least col. 4, line 62, through col. 5, line 59).

In particular, Applicants respectfully submit that Zhang is does not disclose “selecting a schedule adapter from a plurality of schedule adapters for reordering said media packets into said second order that is selected according to loss characteristics of a downstream channel” (emphasis added) as claimed. In contrast, Zhang explicitly discloses that a single algorithm or a single set of rules are applied to the received information to perform packet scheduling.

In summary, Applicants respectfully submit that the rejection of Claims 29-33, 41 and 42 is improper. In particular, Applicants submit that the rejection of Claims 29-33, 41 and 42 does not satisfy the requirements of a *prima facie* case of anticipation as Zhang does not disclose “each and every element as set forth in the claim” as required. In particular, Applicants respectfully submit that Zhang does not disclose “selecting a schedule adapter from a plurality of schedule adapters for reordering said media packets into said second order that is selected according to loss characteristics of a downstream channel” (emphasis added) as asserted in the instant Office Action.

Applicants respectfully assert that Zhang does not anticipate the claimed embodiments of the present invention as recited in independent Claim 29, that this claim overcomes the rejection under 35 U.S.C. § 102(e), and that these claims are thus in a condition for allowance. Therefore, Applicants respectfully submit that Zhang also does not anticipate the claimed embodiments as recited in Claims 30-33, 41 and 42 that depend from independent Claim 29 also overcome

the rejection under 35 U.S.C. § 102(e), and are in a condition for allowance as being dependent on an allowable base claim.

103(a) Rejection – Claim 34

According to the instant Office Action, Claim 34 is rejected under 35 U.S.C. § 103(a) as being unpatentable Zhang. Applicants respectfully note that Claim 34 is cancelled herein without prejudice. Therefore, a discussion of the rejection of Claim 34 is moot at this time.

103(a) Rejections – Claims 1-7, 9-12, 14-20, 22-26, 28 and 36-39

According to the instant Office Action, Claims 1-7, 9-12, 14-20, 22-26, 28 and 36-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable Zhang in view of U.S. Patent Application Publication No. 2004/0085909 by Soliman. Claims 7, 20 and 28 are cancelled herein without prejudice. Furthermore, as presented above, Claim 16 is amended herein to include the recitations of Claims 20 and 21, thereby placing Claim 16 in condition for allowance. Applicants respectfully submit that Claims 17-19 and 22-26 that depend from independent Claim 16 are also now in condition for allowance. Therefore, a discussion of the rejections of Claims 7, 16-20, 22-26 and 28 is moot at this time. The Applicants have reviewed Zhang and Soliman and respectfully submit that the embodiments recited in Claims 1-6, 9-12, 14, 15 and 36-39 are patentable over Zhang and Soliman, alone or in combination, for at least the following rationale.

Claims 36-39 are dependent on independent Claim 29. Hence, by demonstrating that Zhang and Soliman do not show or suggest the limitations

of 29, it is also demonstrated that Zhang and Soliman do not show or suggest the limitations of Claims 36-39.

“As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)). Applicants note that “[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)).

Moreover, Applicants respectfully note that “[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention” (emphasis in original; MPEP 2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

Applicants respectfully submit that the claimed invention as a whole is not obvious over Zhang in view of Soliman. Applicants respectfully submit that

Zhang in view of Soliman does not suggest “selecting a schedule adapter from a plurality of schedule adapters for reordering said media packets into said second order that is selected according to loss characteristics of a downstream channel” (emphasis added) as recited in Applicants’ Claim 29, and the similar recitation of Claim 1.

As presented above, Applicants respectfully submit that Zhang does not disclose “selecting a schedule adapter from a plurality of schedule adapters for reordering said media packets into said second order that is selected according to loss characteristics of a downstream channel” (emphasis added) as recited in independent Claim 29. For the same rationale, Applicants respectfully submit that Zhang does not disclose “selecting a schedule adapter from a plurality of selectable schedule adapters for reordering said media packets into a second order, wherein said second order is selected according to loss characteristics of a downstream channel, and wherein said second order results in reduced distortion with respect to a predicted distortion from said first order” (emphasis added) as recited in independent Claim 1.

In contrast, Applicants respectfully submit that Zhang discloses that a single algorithm or a single set of rules are applied to the received information to perform packet scheduling. In particular, Applicants respectfully submit that Zhang is silent to the selection of a “schedule adapter” as claimed.

Moreover, Applicants respectfully submit that by disclosing that all of the received information is processed by scheduler 200 in a particular manner, Zhang teaches away from “selecting a schedule adapter from a plurality of schedule

adapters for reordering said media packets into said second order that is selected according to loss characteristics of a downstream channel” (emphasis added) as recited in independent Claim 29, and the similar recitation of independent Claim 1.

Furthermore, Applicants submit that Soliman does not overcome the shortcomings of Zhang. Applicants understand Soliman to disclose resource allocation in a wireless communication system. In particular, Applicants respectfully submit that Soliman also does not disclose “selecting a schedule adapter from a plurality of schedule adapters for reordering said media packets into said second order that is selected according to loss characteristics of a downstream channel” (emphasis added) as claimed.

In summary, Applicants respectfully submit that the rejection of Claim 1-6, 9-12, 14, 15 and 36-39 is improper. In particular, Applicants respectfully submit that the rejection of Claim 1-6, 9-12, 14, 15 and 36-39 does not satisfy the requirements of a *prima facie* case of obviousness as Zhang as a whole does not render the claimed embodiments obvious. In particular, Applicants respectfully submit that Zhang in view of Soliman does not teach, describe or suggest “selecting a schedule adapter from a plurality of schedule adapters for reordering said media packets into said second order that is selected according to loss characteristics of a downstream channel” (emphasis added) as recited in independent Claim 29, and the similar recitation of independent Claim 1.

Applicants respectfully assert that Zhang in view of Soliman does not render obvious the claimed embodiments of the present invention as recited in independent Claims 1 and 29, that these claims overcome the rejection under 35

U.S.C. § 103(a), and that these claims are thus in a condition for allowance.

Therefore, Applicants respectfully submit that Zhang in view of Soliman also does not render obvious the claimed embodiments as recited in Claims 2-6, 9-12, 14 and 15 that depend from independent Claim 1, and Claims 36-39 that depend from independent Claim 29, that Claims 2-6, 9-12, 14, 15 and 36-39 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on an allowable base claim.

CONCLUSION

In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims. Based on the arguments presented above, Applicants respectfully assert that Claims 1-6, 9-12, 14-19, 22-26, 29-33, 36-39, 41 and 42 overcome the rejections of record, and therefore Applicants respectfully solicit allowance of these claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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